

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Art Unit: 1647
GRONHOJ-LARSEN, et al.)	Examiner: HAMUD, Fozia
Serial No.: 09/101,825)	Washington, D.C.
Filed: July 17, 1998)	December 23, 2003
For: SYNTHETIC IL-10)	Docket No.: GRONHOJ-LARSEN=2
ANALOGUES)	Confirmation No.: 1107

REQUEST TO VACATE

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

S i r :

The instant action, mailed August 26, 2003 is said to be responsive to the communication filed on April 9, 2003. However, it does not consider or even acknowledge the supplemental response (with Declaration and exhibit) filed on August 7, 2003. Consequently, it should be vacated as incomplete and defective.

We enclose courtesy copies of the response, declaration and exhibit, and of our postcard receipt for same.

Since this was a first supplemental reply to the nonfinal action mailed December 17, 2002, 37 CFR 1.111(a)(2) does not apply, and the supplemental papers should have been entered and considered as a matter of right.

37 CFR 1.104(b) requires that the examiner's action be "complete", which the August 26 action manifestly was not. The examiner must answer arguments made in traversing the rejections, see MPEP 707.07(f).

Since there is a defect in the original action, pursuant to MPEP 710.06, the office must take corrective action (i.e., mail a substitute or supplemental action), and set a new period of reply of at least 1 month which runs from the date the error is corrected.

MPEP 710.06 notes that "a supplementary action after a rejection explaining the references more explicitly or giving the

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reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs".

Respectfully submitted,

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Attorneys for Applicant

By: 

Iyer P. Cooper
Reg. No. 28,005

Enclosure

- August 7, 2003 Supplemental Response
(with Declaration and exhibit)
- August 7, 2003 postcard receipt

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APPLICATION/PATENT NO: 09/101,825
DOCKET NO: Gronhøj-Larsen = 2

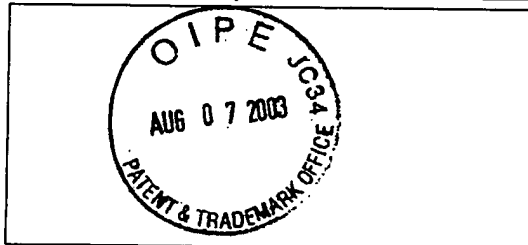
CONF. NO.: 1107
CLIENT CODE: PL0U

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS:

- ☐ FEES \$ _____
- ☐ PTO FORM 2038 ☐ (CH. # _____)
- ☐ EXTENSION OF TIME (_____ MONTHS)
- ☐ TRANSMITTAL LETTER
- ☐ MISSING PARTS RESPONSE WITH DECL
- ☐ AMENDMENT/RESPONSE (circle one)
 - ☐ PRELIMINARY ☐ SUPPLEMENTAL
- ☐ APPLICATION DATA SHEET
- ☐ RESTRICTION/ELECTION REPLY
- ☐ SEQUENCE LISTING ☐ WITH DISK
- ☐ RCE / CPA TRANSMITTAL (circle one)
- ☐ NOTICE OF APPEAL
- ☐ APPEAL BRIEF (TRIPPLICATE)
- ☐ REPLY BRIEF (TRIPPLICATE)
- ☒ OTHER Supplemental Response, Declaration of Bobak

Gesser, and Exhibit D.

B&N-1



- ☐ ASSIGNMENT
- ☐ INFORMATION DISCLOSURE STATEMENT
- ☐ FORM SB08A & _____ PATENTS/PUBS
- ☐ PRIORITY DOCUMENT(S) NO. _____
- ☐ DECLARATION UNDER \$ _____
- ☐ LETTER TO DRAFTSMAN
- ☐ _____ SHEETS OF DRAWINGS
- ☐ ISSUE FEE TRANSMITTAL FORM
- ☐ MAINTENANCE FEE LETTER